

114TH CONGRESS
1ST SESSION

S. 1599

To provide anti-retaliation protections for antitrust whistleblowers.

IN THE SENATE OF THE UNITED STATES

JUNE 17, 2015

Mr. GRASSLEY (for himself and Mr. LEAHY) introduced the following bill;
which was read twice and referred to the Committee on the Judiciary

A BILL

To provide anti-retaliation protections for antitrust
whistleblowers.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Criminal Antitrust
5 Anti-Retaliation Act of 2015”.

6 **SEC. 2. AMENDMENT TO ACPERA.**

7 The Antitrust Criminal Penalty Enhancement and
8 Reform Act of 2004 (Public Law 108–237; 15 U.S.C. 1
9 note) is amended by inserting after section 215 the fol-
10 lowing:

1 **“SEC. 216. ANTI-RETALIATION PROTECTION FOR WHISTLE-**
2 **BLOWERS.**

3 “(a) WHISTLEBLOWER PROTECTIONS FOR EMPLOY-
4 EES, CONTRACTORS, SUBCONTRACTORS, AND AGENTS.—

5 “(1) IN GENERAL.—No employer may dis-
6 charge, demote, suspend, threaten, harass, or in any
7 other manner discriminate against a covered indi-
8 vidual in the terms and conditions of employment of
9 the covered individual because—

10 “(A) the covered individual provided or
11 caused to be provided to the employer or the
12 Federal Government information relating to—

13 “(i) any violation of, or any act or
14 omission the covered individual reasonably
15 believes to be a violation of, the antitrust
16 laws; or

17 “(ii) any violation of, or any act or
18 omission the covered individual reasonably
19 believes to be a violation of, another crimi-
20 nal law committed in conjunction with a
21 potential violation of the antitrust laws or
22 in conjunction with an investigation by the
23 Department of Justice of a potential viola-
24 tion of the antitrust laws; or

25 “(B) the covered individual filed, caused to
26 be filed, testified, participated in, or otherwise

1 assisted an investigation or a proceeding filed
2 or about to be filed (with any knowledge of the
3 employer) relating to—

4 “(i) any violation of, or any act or
5 omission the covered individual reasonably
6 believes to be a violation of, the antitrust
7 laws; or

8 “(ii) any violation of, or any act or
9 omission the covered individual reasonably
10 believes to be a violation of, another crimi-
11 nal law committed in conjunction with a
12 potential violation of the antitrust laws or
13 in conjunction with an investigation by the
14 Department of Justice of a potential viola-
15 tion of the antitrust laws.

16 “(2) LIMITATION ON PROTECTIONS.—Para-
17 graph (1) shall not apply to any covered individual
18 if—

19 “(A) the covered individual planned and
20 initiated a violation or attempted violation of
21 the antitrust laws;

22 “(B) the covered individual planned and
23 initiated a violation or attempted violation of
24 another criminal law in conjunction with a vio-

1 lation or attempted violation of the antitrust
2 laws; or

3 “(C) the covered individual planned and
4 initiated an obstruction or attempted obstruc-
5 tion of an investigation by the Department of
6 Justice of a violation of the antitrust laws.

7 “(3) DEFINITIONS.—In this section:

8 “(A) ANTITRUST LAWS.—The term ‘anti-
9 trust laws’ means section 1 or 3 of the Sher-
10 man Act (15 U.S.C. 1 and 3).

11 “(B) COVERED INDIVIDUAL.—The term
12 ‘covered individual’ means an employee, con-
13 tractor, subcontractor, or agent of an employer.

14 “(C) EMPLOYER.—The term ‘employer’
15 means a person, or any officer, employee, con-
16 tractor, subcontractor, or agent of such person.

17 “(D) PERSON.—The term ‘person’ has the
18 same meaning as in subsection (a) of the first
19 section of the Clayton Act (15 U.S.C. 12(a)).

20 “(4) RULE OF CONSTRUCTION.—The term ‘vio-
21 lation’, with respect to the antitrust laws, shall not
22 be construed to include a civil violation of any law
23 that is not also a criminal violation.

24 “(b) ENFORCEMENT ACTION.—

1 “(1) IN GENERAL.—A covered individual who
2 alleges discharge or other discrimination by any em-
3 ployer in violation of subsection (a) may seek relief
4 under subsection (c) by—

5 “(A) filing a complaint with the Secretary
6 of Labor; or

7 “(B) if the Secretary of Labor has not
8 issued a final decision within 180 days of the
9 filing of the complaint and there is no showing
10 that such delay is due to the bad faith of the
11 claimant, bringing an action at law or equity
12 for de novo review in the appropriate district
13 court of the United States, which shall have ju-
14 risdiction over such an action without regard to
15 the amount in controversy.

16 “(2) PROCEDURE.—

17 “(A) IN GENERAL.—A complaint filed with
18 the Secretary of Labor under paragraph (1)(A)
19 shall be governed under the rules and proce-
20 dures set forth in section 42121(b) of title 49,
21 United States Code.

22 “(B) EXCEPTION.—Notification made
23 under section 42121(b)(1) of title 49, United
24 States Code, shall be made to any individual
25 named in the complaint and to the employer.

1 “(C) BURDENS OF PROOF.—A complaint
2 filed with the Secretary of Labor under para-
3 graph (1)(A) shall be governed by the legal bur-
4 dens of proof set forth in section 42121(b) of
5 title 49, United States Code.

6 “(D) STATUTE OF LIMITATIONS.—A com-
7 plaint under paragraph (1)(A) shall be filed
8 with the Secretary of Labor not later than 180
9 days after the date on which the violation oc-
10 curs.

11 “(E) CIVIL ACTIONS TO ENFORCE.—If a
12 person fails to comply with an order or prelimi-
13 nary order issued by the Secretary of Labor
14 pursuant to the procedures set forth in section
15 42121(b) of title 49, United States Code, the
16 Secretary of Labor or the person on whose be-
17 half the order was issued may bring a civil ac-
18 tion to enforce the order in the district court of
19 the United States for the judicial district in
20 which the violation occurred.

21 “(c) REMEDIES.—

22 “(1) IN GENERAL.—A covered individual pre-
23 vailing in any action under subsection (b)(1) shall be
24 entitled to all relief necessary to make the covered
25 individual whole.

1 “(2) COMPENSATORY DAMAGES.—Relief for any
2 action under paragraph (1) shall include—

3 “(A) reinstatement with the same seniority
4 status that the covered individual would have
5 had, but for the discrimination;

6 “(B) the amount of back pay, with inter-
7 est; and

8 “(C) compensation for any special damages
9 sustained as a result of the discrimination in-
10 cluding litigation costs, expert witness fees, and
11 reasonable attorney’s fees.

12 “(d) RIGHTS RETAINED BY WHISTLEBLOWERS.—
13 Nothing in this section shall be deemed to diminish the
14 rights, privileges, or remedies of any covered individual
15 under any Federal or State law, or under any collective
16 bargaining agreement.”.

